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Supreme Court, U.S.
FILED
APR 30 1987
JOSEPH F. SPANIOL, JR.
CLERK

NO. 86-1534

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1986

RALPH A. APPLEGATE,

Petitioner,

V.

DOBROVIR, OAKES & GEBHARDT,

Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The District Of Columbia Circuit

APPLEGATE'S REPLY BRIEF

Ralph A. Applegate
Petitioner Pro Se
1544 Zettler Road
Columbus, Ohio 43227
614-235-9965

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Supplemental Facts

Affidavit

Ralph A. Applegate, being duly sworn, deposes as follows:

Contrary to respondent, Brief, p.1, ¶2, lines 4-9, Applegate identified Dobrovir as expert prior to appeal. Petition, p. 7, lines 1-4; p.8, lines 13-19. Applegate had not learned until about August, 1984, in discovery, that J. Robinson had ordered, on February 23, 1982 the Applegate underlying case trial to occur in Ohio. Applegate Record Excerpts, No. 85-6198, Docket Entry No. 79-0145, Transcribed

April 6, 1982, pp. 6, 14-19. Dobrovir had heretofore concealed this fact from Applegate, instead ordered Applegate to appear in Washington, D.C. for trial on June 14, 1982 without explanation of any kind why J. Robinson's orders hadn't been followed.

On March 7, 1985, Dobrovir, testifying on personal knowledge in his affidvait in the summary judgment motion, without identifying himself as expert, failed to articulate attorney's standard of care, instead set out various facts purporting to prove that Dobrovir's standard of care had not been violated. Respondent's Record Excerpts, No. 85-6198 pp. 188-194. On June 24, 1985, respondent identified John W. Karr of Washington D.C. as Dobrovir's expert witness, not Dobrovir himself. Id, p. 226, last line.

At no time had John W. Karr testified by affidavit or otherwise, or articulated attorney's standard of care in the case in question. At all times Applegate was prepared to cross-examine Dobrovir, at trial, on direct, what was standard of care, or instruct Dobrovir what standard of care was had Dobrovir denied knowledge of the standard of care, and to question Dobrovir about circumstances where reasonable care was in question.

On September 30, 1985 Applegate discovered statutory law permitting Applegate, or anyone, to call defendant professionals, as expert, at trial, on direct where defendants have relevant knowledge of the facts, and advised J. Oberdorfer of said statutory law on October 9, 1985. Petition, p. 8, line 19.

Ralph A. Applegate

Subscribed and sworn to before me this 27th day of April, 1987.

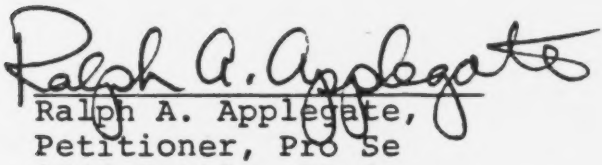
Notary Public

SUZAN TIGYER
Notary Public, State of Ohio
My Commission Expires 4-11-89

Conclusion

Contrary to respondent, Brief, p. 4, ¶2, lines 6-10, Applegate's case and petition, under the circumstances, raises a serious, important, and exceptional federal question concerning the right to trial by jury. Therefore, for the reasons stated in Applegate's petition, and supplemental facts stated herein, Applegate prays this Honorable Court grant Applegate's petition.

Respectfully submitted,



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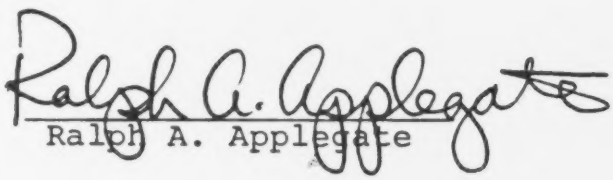
Certificate Of Service

I hereby certify that two copies of the foregoing were mailed this 27th day of April, 1987, by first class mail to:

David P. Durbin
Jordan Coyne Savits & Lopata
1030 Fifteenth St., N.W.
Washington, D.C. 20005



Ralph A. Applegate